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November 14, 2022

VIA ECF

Honorable Jed S. Rakoff
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: United States v. Jatiek Smith
Case No.: 22-CR-352

Dear Judge Rakoff:

I am counsel to Defendant Jatiek Smith. On September 9, 2022, Mr. Smith was presented on the instant indictment in front of Your Honor. At that time, against the strenuous advice of counsel, Mr. Smith opted to exercise his right to a speedy trial. Eventually, that trial date was scheduled for November 28, 2022. Counsel has been preparing for trial since the inception of the case, however, due to the overwhelming volume of the discovery, the timing of that produced discovery, and the conditions at the MDC for my client to review discovery, have made the trial date of November 28, 2022, an impossibility. I am writing the Court to join in Mr. Jackson's motion (Dkt. 102) for the reasons stated therein. Further, this letter will outline additional information as related to Mr. Smith.

At the outset of this letter, it should be noted, after many lengthy discussions with my client, he completely objects to any postponement of his trial date. As previously noted by the government, in *United States v. Lynch*, the Court concluded, "Even were the defendant to object to this month-long continuance, his counsel's view about what is required for the effective preparation of the defense should be given substantial weight, see *United States v. Lynch*, 726 F.3d 346, 356 (2d Cir. 2013) (upholding district court's granting of a continuance, over defendant's objection, so that defense counsel could obtain and consider certain evidence). As eloquently detailed in Mr. Jackson's letter, the defense needs more time to hire expert witnesses to rebut the government's case. While my client does not share the same line of thinking, it would be ineffective not to have experts at least examine claims made by the government experts.

In addition to joining Mr. Jackson's motion to designate the case complex, and the time crunch to go through the new evidence, some of the issues presented in Mr. Jackson's motion are exacerbated as to Mr. Smith. As the Court is aware, Mr. Smith has been detained pending trial. Mr. Smith reports the conditions at the MDC have made it a logistic impossibility to prepare for trial¹. My client reports that because of the increased violence the MDC has been on lockdown for a portion of most days. This has made it impossible for Mr. Smith to review the discovery provided to him from the government. Moreover, because of these near daily lockdowns, video conferences and telephone conferences are canceled more often than they are accomplished; and, attorney visits are not available during these lockdowns. Additionally, Mr. Smith informs me that inmates can access the law library only once a week – for an hour – if, and only if, they are not on lockdown. Finally, when Mr. Smith is able to use a computer on his unit, he reports that the old computers in the detention center don't work; and the newer computers are not able to open the vast majority of the discovery provided by the government. This gives Mr. Smith a serious disadvantage to prepare for trial and dwindling time to go over the large amount of discovery that has recently been produced.

While Mr. Smith may disregard these disadvantages, and still want to proceed to trial, as his counsel, it is my duty to provide him with zealous and effective advocacy. It is of counsel's opinion, that those goals cannot be accomplished for the reasons outlined in Mr. Smith and Mr. Jackson's motion for a continuance. For those reasons, I respectfully ask Your Honor to grant a continuance from the November 28, 2022 trial date as deemed appropriate by the Court to balance defendant's right to a speedy trial with his right to a fair trial.

Respectfully submitted,

/s/ Michael Vitaliano
Michael Vitaliano
Attorney for Defendant
Jatielk Smith

cc: All Counsel (via ECF)

¹ While I've discussed these issues with Mr. Smith – he still insists on a November 28, 2022 trial date.